

REMARKS

The Examiner's action dated January 5, 2010, has been received, and its contents carefully noted.

Withdrawal of the finality of the previous rejection is noted with appreciation, as is the examiner's telephone confirmation that the present office action is intended to be a nonfinal action.

It is further noted that claims 9-14 are still pending, although they stand withdrawn from consideration.

In order to advance prosecution, claim 1 has been amended in response to the rejection under 35 USC 112, ¶2. Please note, however, that claim 1 did not define a broad range together with a narrow range. The term "i.e." introduces a clarifying statement, and not a narrow range. When a network, or a subnetwork is idle, it is, by definition, without traffic. Thus, "idle" and "without traffic load" are, in essence, synonymous, and the only purpose of the previous form of recitation was simply to make clear what was meant by "idle".

The rejection of claims 1, 2 and 15-17 as unpatentable, under 35 U.S.C. 103, over O'Byrne in view of Plehn and Li is respectfully traversed for the reason that the method according to the present invention, particularly as now defined in independent claims 1 and 15, is not disclosed in,

or suggested by any reasonable combination of the teachings of, the applied references.

The arguments and explanations in the Remarks of our previous response are incorporated herein by reference.

The method defined in claim 1 differs from the method disclosed by O' Byrne by inclusion of at least the following steps that are not disclosed by O' Byrne:

a) preparing an interference matrix based on the acquired measurement data, wherein for the preparation of the interference matrix for each area element;

b) base stations having a power lying in a 10 dB window below the power of the Best Server are registered as interferers, and wherein the interference matrix reflects a statement regarding the interference relationship of each base station with other base stations;

c) (when preparing the interference matrix) base stations that are necessary for a Soft Handover, SHO, are not rated as interferers; and

d) the step of acquiring is carried out while the subnetwork is without traffic load.

With regard to limitations b) and c), above, the Examiner appears to be relying on the disclosure at column 7, lines 17-38 and 57-61 of the O' Byrne patent. However, these portions of the patent specification do not disclose the

concept of rating those stations that are necessary for a Soft Handover as interferers, and does not disclose registering base stations having a power line in a 10dB window below the power of the Best Server as interferers.

Furthermore, the secondary reference, Plehn, also does not disclose limitations b), c) and d), cited above.

Moreover, Li, the newly applied reference, also fails to disclose any of limitations a), b), c) and d), above.

In particular, Li fails to disclose a step of acquiring measurement data only while the subnetwork is idle. In paragraph [0026] of Li, it is disclosed that the cell traffic loads of each cell of the localized service area can be measured. The traffic loads give details about traffic times and idle times of a cell. However, Li fails to disclose "acquiring measurement data... including the received signal power of at least one downlink pilot channel of multiple base stations that can be received in this area element, and the total back ground noise power in the analyzed frequency band,... only while the subnetwork is without traffic load...".

Thus, while Li discloses measuring traffic loads at all times, claim 1 specifies that other parameters are measured, only while the subnetwork is without traffic load.

This means that even if the disclosures of the applied references could be combined, the resulting combined method would not include all of the steps of claim 1. In particular, such combined method would not lead to the creation of data in which base stations that are not necessary for a soft handover are not rated as interferers. This is a significant feature of the present invention in that it allows achievement of the improved results intended by this invention.

Claim 15 also distinguishes over the applied references by the following recitations, which are similar to the novel limitations presented in claim 1:

preparing an interference matrix based on the acquired measurement data, wherein the interference matrix reflects a statement regarding the interference relationship of each base station with other base stations; and

rating base stations that are necessary for a Soft Handover, SHO, as not being interferers.

Thus, even if the teachings of the references could be combined, the method defined in the present claims would not result.

The rejection of claims 4-8 under 35 U.S.C. 103 is traversed at least for the reason that these claims depend

from claim 1, and should be considered allowable along therewith.

In view of the foregoing, it is requested that all of the objections and rejections of record be reconsidered and withdrawn, that at least claims 1, 2, 4-8 and 15-17 be allowed and that the application be found in allowable condition.

If the above amendment should not now place the application in condition for allowance, the examiner is asked to telephone counsel to arrange an interview to attempt to resolve remaining issues.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By /jmf/  
Jay M. Finkelstein  
Registration No. 21,082

JMF:smb  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
G:\BN\R\rieb\Beyer1\Pto\2010-04-05 Amendment.doc